

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 2916 OF 2006

Sunder Nagari Rahivasi Sangh ... Petitioner

V/s.

Municipal Corp. of Gr. Mumbai ... Respondents
& Ors.

Mr. R.S. Apte with Mr. Neel G. Helekar for petitioner.
Ms. Preeti Purandare for respondent No.1.
Ms. Imam Calcuttawala, AGP for respondent No. 2.
Mr. D.R. Zaiwala with Mr. J.K. Mistry i/b. Pankaj
Kapoor for respondent Nos. 3 to 5.

**CORAM : F.I. REBELLO &
 ANOOP V. MOHTA, JJ.
DATED : 28th November, 2006**

P.C.

. Rule. Heard forthwith.

2. The petitioners have approached this Court apprehending flooding and also that the sewerage system will be affected on account of reclamation being done on behalf of respondent Nos. 3 to 5. It is not necessary for us to go into the various objections and contentions like the permission of the Corporation or of the Environment Ministry, as the respondents in their reply have annexed copies of the same. The Corporation without granting permission to the respondents for reclaiming the land has imposed various conditions by letter dated 08.06.2004. We may

gainfully reproduce the same:

"1) To provide 1.00 Mt x 1.00 Mt. Wide open drain with grating on top of it on Adarsh Nagar and Sunder Nagar Slum side at C to D & E to F as shown on the accompanying plan with required gradient.

2) To provide 1.50 Mt. Wide pathway for cleaning and maintaining the said drain as shown on the plan.

3) The proposed compound wall shall be provided after having leaving required open space.

4) To extend the existing 750 mm dia size Adarsh Nagar out fall from point A to B as shown on the plan with 900 mm dia R.C. NP2 class pipe with 15 cm. Wide encasement in cement concrete grade M-100 all around. The required gradient shall be maintained.

5) As regarding sewer manholes and connection of existing Sulabh (Milan) Souchalaya specific remarks from the Ch. E (S.P.)/Asst. Commissioner 'A' Ward office shall be obtained before commencement of any work on site.

6) You shall allow M.C.G.M. staff for periodical cleaning of S.W.D. or when ever need arises for the same.

7) You shall approach this office for completion certificate after completion of work.

8) Completion certificate will be issued to you, the work of S.W. Drain is carried out satisfactorily and as per approved plan."

3. It appears that during the last rainy reason, there was flooding in the area pursuant to which the Assistant Engineer of the Corporation had visited the

site and had made some recommendations, which are:

"1) Construction of 4 to 5 additional manholes on the rain water drain which goes to Kunjali water basin which will facilitate servicing.

2) Carrying out the cleaning work of rain water drain and manholes passing through Azad Nagar before monsoon.

3) Laying down new rain water drain parallel to the drain going to Kunjali Water Basin in between Navroji Marg and Jamshedji Bandar.

. As filling up gun carriage basin at INS Kunjali is carried out for new helipad the rain water drain of Azadnagari is turned from Sundernagari. The servicing of the said drain will be carried out in future by the Central Agency of Water Drains and the service road will be necessary for passing the vehicles/instrument of Central Agency from that area. It is necessary to follow up the matter in this respect through rain water storm department Central Agency."

. It was further recommended that servicing of the said drain should be carried out in the future by the Central Agency of Water Drains and for that service road will be necessary for passing vehicles/instruments of Central Agency from that area.

4. After hearing the parties, in our opinion, the issue can be resolved by issuing the following directions:

i. The BMC authorities to inspect the constructions and to examine whether sufficient manholes have been provided on the water drain which goes to Kunjali water basin. If, on inspection, it is found that, at present the manholes which are either provided or are proposed are not sufficient, then to issue direction for such additional manholes which will obviate the problem. On such directions, the respondent Nos. 3 to 5 to provide such manholes.

ii. Insofar as cleaning work of drain and manholes, the permission dated 08.06.2004 itself provides the conditions. The respondent Nos. 3 to 5 will be bound by the said conditions. In the event, there is any emergency, which requires the Municipal Corporation to take vehicles for the purpose of cleaning the drain or manholes in terms of condition (6) of the permission granted, then in that event, respondent Nos. 3 to 5 in such cases to permit the respondent - Corporation to take their vehicles for the purpose of cleaning the drain and manholes.

iii. The Corporation in order to ensure that the directions, issued for the purpose are carried out to inspect the land/premises as to whether the drainage

is being done in terms of permission granted and other conditions are complied with and if not, to issue directions to respondent Nos. 3 to 5. A copy of the inspection memo with the directions issued be forwarded to the petitioner. Inspection to be carried out within six weeks.

iv. Liberty to the parties to approach this Court, in the event there are any difficulties in implementing this order.

5. Rule made absolute. There shall be no order as to costs.

[F.I. REBELLO, J.]

[ANOOPI V. MOHTA, J.]